

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2515

BY DELEGATES HOWELL, CLARK, SMITH, CROUSE,

JENNINGS, FERRELL, PHILLIPS, HONAKER, CANNON,

LINVILLE AND HOTT

[Passed March 9, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §9-3-1 and §9-3-2 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §18B-1B-4; and to amend said code by adding thereto
3 a new section, designated §21A-10-24, all relating to requiring certain agencies to work
4 together to create an inventory of occupational and educational resources for certain
5 persons qualified to receive assistance and to maintain and distribute that document;
6 requiring that the Bureau for Family Assistance, the Higher Education Policy Commission,
7 and Workforce West Virginia develop and maintain an inventory of available services and
8 supports for individuals qualified to receive federal, federal-state, or state assistance and
9 who wish to obtain a degree, secure workforce training, or reenter the workforce; requiring
10 the Bureau for Family Assistance, the Higher Education Policy Commission, and
11 Workforce West Virginia to maintain the document on their websites and to distribute the
12 document via first-class mail upon request; and eliminating authority of Higher Education
13 Policy Commission to restrict or regulate the carrying of concealed pistols or revolvers in
14 certain circumstances.

Be it enacted by the Legislature of West Virginia:

CHAPTER 9. HUMAN SERVICES.

ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.

§9-3-1. Application for and granting of federal-state or federal assistance.

1 (a) Any person domiciled in this state, who shall make, or have made in his or her behalf,
2 an application therefor and who is otherwise in all respects qualified to receive the same, shall be
3 granted federal-state assistance or federal assistance in such form and amount, to such extent,
4 and for such period, as authorized by applicable federal and state laws, rules and regulations and
5 as determined by the department in accordance with such laws, rules and regulations and within
6 limits of available funds.

7 (b) In conjunction with the Higher Education Policy Commission and Workforce West
8 Virginia, the Bureau for Family Assistance must compile and maintain a list of those services
9 available to assist and support individuals who are qualified to receive federal, federal-state, or
10 state assistance and who want to obtain a degree, secure workforce training, or reenter the
11 workforce. This document must be maintained on the Bureau for Family Assistance's website and
12 any hard copy requested for this document must be supplied to the person requesting the
13 information via first-class mail.

§9-3-2. Application for and granting of state assistance.

1 (a) Any indigent person domiciled in this state, who shall make, or have made in his or her
2 behalf, an application therefor and who is otherwise in all respects qualified to receive the same,
3 shall be granted state assistance in such form and amount, to such extent, and for such period,
4 as authorized by applicable state laws, rules and regulations of the department and as determined
5 by the department in accordance with such laws, rules and regulations and within limits of
6 available funds.

7 (b) In conjunction with the Higher Education Policy Commission and Workforce West
8 Virginia, the Bureau for Family Assistance must compile and maintain a list of those services
9 available to assist and support individuals who are qualified to receive federal, federal-state, or
10 state assistance and who want to obtain a degree, secure workforce training, or reenter the
11 workforce. This document must be maintained on the Bureau for Family Assistance's website and
12 any hard copy requested for this document must be supplied to the person requesting the
13 information via first-class mail.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

1 (a) The primary responsibility of the commission is to provide shared services in a cost-
2 effective manner upon request to the state colleges and universities, the West Virginia Council
3 for Community and Technical College Education, and the community and technical colleges;
4 undertake certain statewide and regional initiatives as specifically designated in this chapter,
5 including those related to the administration of grants and scholarships and including those in
6 conjunction with the council; to review, confirm, or approve certain actions undertaken by
7 governing boards, as delineated in this chapter; and assist in the development of policy that will
8 achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The
9 commission shall exercise its authority and carry out its responsibilities in a manner that is
10 consistent and not in conflict with the powers and duties assigned by law to the West Virginia
11 Council for Community and Technical College Education and the powers and duties assigned to
12 the governing boards. To that end, the commission has the following powers and duties relating
13 to the governing boards under its jurisdiction:

14 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this
15 code to address major challenges facing the state, including, but not limited to, the goals,
16 objectives, and priorities established in this chapter;

17 (2) In conjunction with the council, propose emergency and legislative rules in accordance
18 with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula
19 model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in
20 developing their annual budget requests to ensure the fair and equitable distribution and use of
21 public funds among the state's institutions of higher education, including the statutorily and
22 administratively exempted schools. This funding formula model shall advance the goals of the
23 state's postsecondary education system by emphasizing outcomes focused on student success
24 and institutional mission achievement. The formula shall include a range of variables that shall be
25 weighted in a manner that corresponds to each institution's mission and provides incentives for
26 productivity improvements consistent with the goal of strengthening the state's economy and

27 workforce by developing the most competitive and capable graduates in the nation. The rule shall,
28 at a minimum:

29 (A) Establish a set of objective performance metrics that reflect and support the state's
30 higher education goals and priorities and the methodology by which those metrics shall be used
31 in the allocation of state funds;

32 (B) Ensure that a portion of each institution's base appropriation is allocated based on
33 outcomes achieved over a defined period of time;

34 (C) Incentivize postsecondary program offerings that align with the state's higher
35 education and workforce development priorities; and

36 (D) Establish safeguards to ensure stability of the funding formula model including, but
37 not limited to, providing for periodic reviews of and revision to the performance metrics and
38 funding methodology in addition to accounting for inflation;

39 (3) In collaboration with the council and the governing boards:

40 (A) Build public consensus around and sustain attention to a long-range public policy
41 agenda. In developing the agenda, the commission and council shall seek input from the
42 Legislature, the Governor, the governing boards, and the State Board of Education and local
43 school districts to create the necessary linkages to assure smooth, effective and seamless
44 movement of students through the public education and post-secondary education systems and
45 to ensure that the needs of public school courses and programs can be fulfilled by the graduates
46 produced and the programs offered;

47 (B) Assist governing boards in carrying out their duty effectively to govern the individual
48 institutions of higher education;

49 (4) Serve as a point of contact to state policymakers:

50 (A) The Governor for the public policy agenda; and

51 (B) The Legislature by maintaining a close working relationship with the legislative
52 leadership and the Legislative Oversight Commission on Education Accountability;

53 (5) Upon request, provide shared services to a state institution of higher education;

54 (6) Administer scholarship and grant programs as provided for in this code;

55 (7) Establish and implement the benchmarks and performance indicators for state colleges
56 and universities necessary to measure institutional progress in achieving state policy priorities
57 and institutional missions pursuant to §18B-1D-7 of this code;

58 (8) Establish a formal process for recommending capital investment needs and for
59 determining priorities for state colleges and universities for these investments for consideration
60 by the Governor and the Legislature as part of the appropriation request process pursuant to
61 §18B-19-1 *et seq.* of this code;

62 (9) Except the statutorily and administratively exempted schools, develop standards and
63 evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et*
64 *seq.* of this code;

65 (10) Except the statutorily and administratively exempted schools, ensure that governing
66 boards manage capital projects and facilities needs effectively, including review and approval of
67 capital projects, in accordance with §18B-19-1 *et seq.* of this code;

68 (11) Acquire legal services as considered necessary, including representation of the
69 commission, the governing boards, employees, and officers before any court or administrative
70 body, notwithstanding any other provision of this code to the contrary. The counsel may be
71 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission
72 may, but is not required to, call upon the Attorney General for legal assistance and representation
73 as provided by law;

74 (12) Employ a chancellor, and any interim chancellor employed shall meet all criteria
75 required of the chancellor, pursuant to §18B-1B-5 of this code;

76 (13) Employ other staff as necessary and appropriate to carry out the duties and
77 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this
78 code;

79 (14) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and
80 other staff;

81 (15) Approve the total compensation package from all sources for presidents of institutions
82 under its jurisdiction, except the statutorily exempted schools, as proposed by the governing
83 boards. The governing boards, except the governing boards of the statutorily exempted schools,
84 must obtain approval from the commission of the total compensation package both when
85 institutional presidents are employed initially and afterward when any change is made in the
86 amount of the total compensation package: *Provided*, That the commission shall receive notice,
87 but need not approve or confirm, an increase in the compensation of an institutional president
88 that is exactly in the ratio of compensation increases allocated to all institutional employees and
89 approved by the governing board to expressly include the president;

90 (16) Assist and facilitate the work of the institutions to implement the policy of the state to
91 assure that parents and students have sufficient information at the earliest possible age on which
92 to base academic decisions about what is required for students to be successful in college, other
93 post-secondary education and careers related, as far as possible, to results from current
94 assessment tools in use in West Virginia;

95 (17) Approve and implement a uniform standard jointly with the council to determine which
96 students shall be placed in remedial or developmental courses. The standard shall be aligned
97 with college admission tests and assessment tools used in West Virginia and shall be applied
98 uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of
99 the standard which they shall communicate to the State Board of Education and the state
100 superintendent of schools;

101 (18) Jointly with the council and in conjunction with the West Virginia Network, support
102 systemwide technology needs through leveraged consortium purchasing, software, database and
103 networking support, and other services including, but not limited to, the following:

104 (A) Expanding distance learning and technology networks to enhance teaching and
105 learning, and promoting access to quality educational offerings with minimum duplication of effort;
106 and

107 (B) Increasing the delivery of instruction to nontraditional students, providing services to
108 business and industry, and increasing the management capabilities of the higher education
109 system.

110 (C) Notwithstanding any other provision of law or this code to the contrary, the council,
111 commission, and governing boards are not subject to the jurisdiction of the Chief Technology
112 Officer for any purpose;

113 (19) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to
114 ensure that, within sound academic policy, a student may transfer and apply toward the
115 requirements of any postsecondary credential the maximum number of credits earned at any
116 regionally accredited in-state or out-of-state institution of higher education in a manner that
117 minimizes the need to repeat courses or incur additional costs. This requirement applies to
118 transfer processes for all levels of postsecondary programs delivered at community and technical
119 colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

120 (20) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to
121 develop a program through which a student who has gained knowledge and skills through
122 employment, participation in education, and training at vocational schools or other education
123 institutions, or Internet-based education programs, may demonstrate by competency-based
124 assessment that he or she has the necessary knowledge and skills to be granted academic credit
125 or advanced placement standing toward the requirements of an associate's degree or a
126 bachelor's degree at a state institution of higher education;

127 (21) Seek out and attend regional, national, and international meetings and forums on
128 education and workforce development-related topics as, in the commission's discretion, are
129 critical for the performance of their duties as members, for the purpose of keeping abreast of

130 education trends and policies to aid it in developing the policies for this state to meet the
131 established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et*
132 *seq.* of this code;

133 (22) Promulgate and implement a rule for governing boards and institutions to follow when
134 considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide
135 for appropriate deference to the value judgments of governing boards and may not apply to the
136 statutorily or administratively exempted schools;

137 (23) Submit to the appropriate agencies of the executive and legislative branches of state
138 government an appropriation request that reflects recommended appropriations for the
139 commission and the governing boards under its jurisdiction including the statutorily and
140 administratively exempted schools. The commission shall submit as part of its appropriation
141 request the separate recommended appropriation request it received from the council, both for
142 the council and for the governing boards under the council's jurisdiction. The commission annually
143 shall submit the proposed allocations based on the funding formula model required by subdivision
144 (a)(2) of this section;

145 (24) Promulgate rules allocating reimbursement of appropriations, if made available by the
146 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing
147 services to students with physical, learning, or severe sensory disabilities;

148 (25) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary
149 or expedient to fulfill the purposes of this chapter and Chapter 18C of this code;

150 (26) Determine when a joint rule among the governing boards under its jurisdiction is
151 necessary or required by law and, in those instances, in consultation with the governing boards
152 under its jurisdiction, promulgate the joint rule;

153 (27) Promulgate and implement a rule jointly with the council whereby course credit
154 earned at a community and technical college transfers for program credit at any other state
155 institution of higher education and is not limited to fulfilling a general education requirement;

156 (28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee
157 policy for all governing boards under the jurisdiction of the commission, except the statutorily and
158 administratively exempted schools. The rule shall include, but is not limited to, the following:

159 (A) Differences among institutional missions;

160 (B) Strategies for promoting student access;

161 (C) Consideration of charges to out-of-state students; and

162 (D) Any other policies as the commission and council consider appropriate;

163 (29) Notwithstanding any other provision of this code to the contrary sell, lease, convey,
164 or otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-
165 1 *et seq.* of this code;

166 (30) Provide policy analysis and research focused on issues affecting institutions of higher
167 education generally or a geographical region thereof;

168 (31) Develop and approve institutional mission definitions except for the statutorily and
169 administratively exempted schools: *Provided*, That the commission may use funds appropriated
170 by the Legislature for incentive funds to influence institutional behavior in ways that are consistent
171 with public priorities, including the statutorily and administratively exempted schools;

172 (32) Review and approve academic programs for governing boards under its jurisdiction,
173 except the statutorily and administratively exempted schools. The review and approval includes
174 use of institutional missions as a template to judge the appropriateness of both new and existing
175 programs and the authority to implement needed changes.

176 (A) The commission's authority to review and approve academic programs for the
177 statutorily and administratively exempted schools is limited to programs that are proposed to be
178 offered at a new location not presently served by that institution: *Provided*, That West Virginia
179 University and the West Virginia University Institute of Technology are subject to the commission's
180 authority as provided in §18B-1C-2 of this code.

181 (B) In reviewing and approving academic programs, the commission shall focus on the
182 following policy concerns:

183 (i) New programs may not be implemented which change the institutional mission, unless
184 the institution also receives approval for expanding the institutional mission;

185 (ii) New programs which require significant additional expense investments for
186 implementation may not be implemented unless the institution demonstrates that:

187 (I) The expenses shall be addressed by effective reallocations of existing institutional
188 resources; or

189 (II) The expenses can be legitimately spread out over future years and shall be covered
190 by reasonably anticipated additional net revenues from new enrollments;

191 (iii) A new undergraduate program which is significantly similar to an existing program
192 already in the geographic service area may not be implemented unless the institution requesting
193 the new program demonstrates a compelling need in the service area that is not being met by the
194 existing program: *Provided*, That the academic programs of the statutorily and administratively
195 exempted schools are not to be taken into consideration except as it relates to academic programs
196 offered at West Virginia University in Beckley and West Virginia University Institute of Technology
197 in Beckley.

198 (C) The commission shall approve or disapprove proposed academic degree programs in
199 those instances where approval is required as soon as practicable. The commission shall
200 maintain by rule a format model by which a new program approval shall be requested by an
201 institution. When a request for approval of a new program is submitted to the commission, the
202 chancellor shall provide notice within two weeks as to whether the submission meets the required
203 format, and if it does not the chancellor shall identify each specific deficiency and return the
204 request to the institution. The institution may refile the request for approval with the commission
205 to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the

206 request meets the required format, the commission shall either approve or disapprove the request
207 for the new program. The commission may not withhold approval unreasonably.

208 (33) Distribute funds appropriated to the commission, including incentive and
209 performance-based funds;

210 (34) Administer state and federal student aid programs under the supervision of the vice
211 chancellor for administration, including promulgation of rules necessary to administer those
212 programs;

213 (35) Serve as the agent to receive and disburse public funds when a governmental entity
214 requires designation of a statewide higher education agency for this purpose;

215 (36) Develop and distribute information, assessment, accountability and personnel
216 systems for state colleges and universities, including maintaining statewide data systems that
217 facilitate long-term planning and accurate measurement of strategic outcomes and performance
218 indicators;

219 (37) Jointly with the council, promulgate and implement rules for licensing and oversight
220 for both public and private degree-granting and nondegree-granting institutions that provide post-
221 secondary education courses or programs in the state. The council has authority and
222 responsibility for approval of all post-secondary courses or programs providing community and
223 technical college education as defined in §18B-1-2 of this code;

224 (38) Develop, facilitate, and oversee statewide and regional projects and initiatives related
225 to providing post-secondary education at the baccalaureate level and above such as those using
226 funds from federal categorical programs or those using incentive and performance-based funds
227 from any source;

228 (39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted
229 schools, review institutional operating budgets, review and approve capital budgets, and distribute
230 incentive and performance-based funds.

231 (B) For the governing boards of the statutorily exempted schools, the commission shall
232 distribute incentive and performance-based funds and may review and comment upon the
233 institutional operating budgets and capital budgets. The commission's comments, if any, shall be
234 made part of the governing board's minute record and shall be filed with the Legislative Oversight
235 Commission on Education Accountability;

236 (40) Provide information, research, and recommendations to state colleges and
237 universities relating to programs and vocations with employment rates greater than 90 percent
238 within six months post-graduation; and

239 (41) Provide information, research, and recommendations to state colleges and
240 universities on coordinating with the West Virginia State Board of Education about complimentary
241 programs.

242 (b) In addition to the powers and duties provided in this section and any other powers and
243 duties assigned to it by law, the commission has other powers and duties necessary or expedient
244 to accomplish the purposes of this chapter and Chapter 18C of this code: *Provided*, That the
245 provisions of this subsection do not shift management authority from the governing boards to the
246 commission.

247 (c) The commission may withdraw specific powers of a governing board under its
248 jurisdiction for a period not to exceed two years, if the commission determines that either of the
249 following conditions exist:

250 (1) The commission has received information, substantiated by independent audit, of
251 significant mismanagement or failure to carry out the powers and duties of the governing board
252 according to state law; or

253 (2) Other circumstances which, in the view of the commission, severely limit the capacity
254 of the governing board to exercise its powers or carry out its duties and responsibilities.

255 The commission may not withdraw specific powers for a period exceeding two years.
256 During the withdrawal period, the commission shall take all steps necessary to reestablish sound,
257 stable and responsible institutional governance.

258 (d) On or after July 1, 2024, nothing in this section authorizes the commission to restrict
259 or regulate the carrying of a concealed pistol or revolver by a person who holds a current and
260 valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of
261 this code.

262 (e) In conjunction with Workforce West Virginia and the Bureau for Family Assistance, the
263 Higher Education Policy Commission must compile and maintain a list of those services available
264 to assist and support individuals who are qualified to receive federal, federal-state, or state
265 assistance and who want to obtain a degree, secure workforce training, or reenter the workforce.
266 This document must be maintained on the Higher Education Policy Commission’s website, and
267 any hard copy requested for this document must be supplied to the person requesting the
268 information via first-class mail.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 10. UNEMPLOYMENT COMPENSATION.

§21A-10-24. List of services and support available to individuals who are qualified to receive federal, federal-state, or state assistance.

1 (a) In conjunction with the Higher Education Policy Commission and the Bureau for Family
2 Assistance, Workforce West Virginia must compile and maintain a list of those services available
3 to assist and support individuals who are qualified to receive federal, federal-state, or state
4 assistance and who want to obtain a degree, secure workforce training, or reenter the workforce.
5 This document must be maintained on Workforce West Virginia’s website, and any hard copy
6 requested for this document must be supplied to the person requesting the information via first-
7 class mail.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2023.

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Governor